

**REMARKS—General**

Applicant has deleted all previous claims and rewritten all claims to define the invention more particularly and distinctly so as to overcome the technical rejections and define the invention patentably over the prior art cited by the Examiner.

**The objection to claim 1 under 35 USC 112, first paragraph, as failing to comply with the written description requirement.**

The claim was objected to under §112 since it was said to fail to properly describe the art in such a way as to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention. Applicant requests reconsideration and withdrawal of this objection since Applicant deleted the previous claim language that was not described in the specification and amended the claim, limiting the claim to the subject matter described in the specification.

**The objection to claim 1 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.**

Applicant requests reconsideration and withdrawal of this objection since Applicant deleted the previous claim language that was not described in the specification and amended the claim, specifically describing what Applicant regards as the invention.

**The Examiner raised issue regarding the recitation of the wire portions of the chain link fence.**

The applicant recites the chain link fence and any reference to the chain link fence, it's wires, stagger, and diamond pattern functionally. Chain link fences are common place and well understood. The invention interconnects to the fence and is designed specifically to function with the chain link fence.

**The Rejection of Claim 1 on Menser Patent Number 3,347,505.**

**FIRST ISSUE: Shape of the folded elements of the device**

Menser discloses a hook apparatus comprising a first vertically disposed element having two oppositely located end portions, a second vertically disposed element integral with the first element and extending from the top of the said two oppositely located end portions of the first element and disposed with said first element in an L-shape before the first and second elements are folded relative to one another and disposed with said first element in a generally parallel configuration after being folded.

The Amended claim 10 of this Response to the first office action properly describes the Studer invention as having the first element, second element, and flat fold portion being folded relative to one another in an upside down U-shape, not a L-shape. Menser '505 fails to specifically teach that the first, second, and fold portion form an upside down U-shape.

**SECOND ISSUE: Dimensions Relative to the Chain Link Fence**

Menser discloses the flat fold portion having opposing staggered notches on the anterior side edge of said flat fold portion, the staggered notches centered a distance from the union of the first element and the flat fold portion and second notch centered a distance from the union of the second element and the flat fold portion, both notches having an internal radius.

The Amended claim 10 of this Response to the first office action describes a flat fold portion notched, having one notch along the anterior right side edge, and another notch along the anterior side edge, said notches located on a stagger from the horizontal axis, generally matching the wire stagger of the diamond pattern of a chain link fence. Mesner fails to teach the stagger being related to the diamond pattern of the chain link fence.

Also, Mesner fails to teach that the internal radius of the notches is slightly larger than the radius of the wire used in the chain link fence, allowing for the wire of the chain link fence to removably engage with said notches.

### THIRD ISSUE: References and Differences of the Present Invention Thereover

Examiner stated on page 10 of the office action, first paragraph, that "It would have been obvious to one of ordinary skilled in the art at the time the invention was made to have constructed the previously mentioned features of any number of various dimensions, including those specifically recited because doing so is considered a design choice and hence not considered patentable since the applicant has not specifically recited in the originally filed specification why such a dimension is critical to the invention or produces, an unexpected result.

In the original Description of Related Art on page of he application Applicant identifies that the proposed invention interconnects at the bottom of the diamond pattern of the 45 degree wire portion via staggered notches. This is a superior interconnection method due to the staggered notches providing secure interconnection. The unexpected result is that the invention holds more weight in the vertical axis because of this notched attachment method. On page 3 of the application under Disclosure of Invention, Applicant identifies that notching the flat fold portion provides fit and function with the wire pattern of the chain link fence. Amended claim 10 of this Response to the first office action describes the notches located on a stagger from the horizontal axis, generally matching the wire stagger of the diamond pattern of a chain link fence. The internal radius of said notches is slightly larger but generally matching the radius of the wire used in a chain link fence. The stagger of the notches, and the internal radius of the notches, was specifically disclosed in the specification and central to what is claimed in this application as being the invention. If the stagger pattern does not match the chain link fence, or if the internal radius of the notch is not slightly larger than the radius of the wire in the chain link fence, the device will not operate as described.

The relationship between the stagger of the chain link fence and the wire radius of the chain link fence was specifically disclosed in the specification. Mesner fails to teach any relationship, fit, or function related to the chain link fence stagger pattern or wire radius. Further, Mesner teaches a hook and clasp

method of connection to the wires of the chain link fence, whereas the Studer invention uses the notches to interconnect with the wires of the chain link fence.

#### **SUMMARY**

Applicant therefore submits that the amended new claim 10, accurately claims and describes the proposed invention, that the specification properly and adequately discloses the invention, and claim 10 clearly recites novel physical subject matter that distinguishes over Mesner and the other referenced art. Therefore Applicant submits that this application is now in condition for allowance, which action he respectfully solicits.

#### **CONDITIONAL REQUEST FOR CONSTRUCTIVE ASSISTANCE**

Applicant has amended the specification and claims of this application so that they are proper, definite, and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, Applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P §2173.02 and § 707.07(j) in

order that the undersigned can place this application in allowance condition as soon as possible and without the need for further proceedings.

Best Regards,

Robert J. Ireland, PTO 47,237

Patent Attorney for Donald Studer

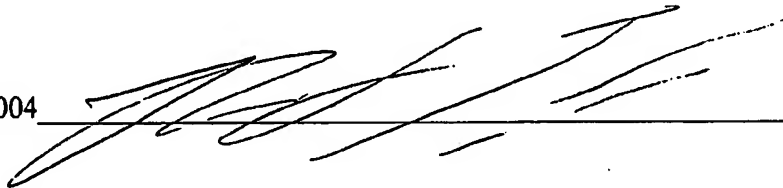
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I certify that on the date below this document and referenced attachments will be deposited with the US Postal Service as first class mail in an envelope addressed to "Box Non-Fee Amendments, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

November 11, 2004

A handwritten signature in black ink, appearing to be "Robert J. Ireland", is written over a horizontal line.